

# SECRETARY of STATE

Sam Reed



Legislative Building  
PO Box 40220  
Olympia, WA 98504-0220  
Tel 360.902.4151  
Fax 360.586.5629  
[www.secstate.wa.gov](http://www.secstate.wa.gov)

July 25, 2005

Honorable Members of the Senate  
Honorable Members of the House of Representatives  
Washington State Legislature  
Olympia, WA 98504

Dear Members of the Legislature:

Our state continues to experience changes to its election system, and my office is working to comply with new requirements. I have attached a report to update you on events related to the implementation of the federal Help America Vote Act, extensive election reforms adopted by the 2005 Legislature, and our state's pick-a-party primary, since a court ruled I-872's version of the top two primary is unconstitutional.

I hope you find this useful as inquiries from your constituents increase about the upcoming primary election.

If you have further questions, please do not hesitate to contact the Elections Division at (360) 902-4180 or me.

Sincerely,

SAM REED  
Secretary of State

SR:tn

# **A Status Report To the Washington State Legislature Election Issues**

## **I. Introduction**

Washington State has experienced an historical level of change and events during the past several years relating to elections.

This report will provide an executive overview regarding the status of significant developments affecting elections in Washington State, including the following matters:

- Election Contest for the 2004 Governor's race
- The Washington Primary
- Election Reform Legislation
- Vote by Mail
- Help America Vote Act (HAVA)
- Voter Registration Database
- Voter Education and Outreach Campaign

## **II. Election Contest for the 2004 Governor's Race**

The election contest initiated by various parties challenging the 2004 Governor's election was conducted in Chelan County Superior Court by Superior Court Judge Jon Bridges and commenced on May 23, 2005.

After a two week trial, Judge Bridges entered his ruling on Monday, June 6, 2005. In his ruling, Judge Bridges subtracted four votes from Republican Dino Rossi and subtracted one vote from Libertarian Ruth Bennett. In all other respects, Judge Bridges confirmed the 2004 Governor's election. A copy of Judge Bridges ruling is posted on the Secretary of State website at [www.secstate.wa.gov](http://www.secstate.wa.gov).

Following the ruling, the petitioners advised they did not intend to appeal Judge Bridge's decision. The key parties to the case have since entered agreements resolving issues relating to costs and appeals.

As a result, the 2004 Governor's race is now formally concluded.

## **III. The Washington Primary**

Last Friday, July 15, 2005, Federal District Court Judge Thomas Zilly declared Washington's new "top two" primary unconstitutional in its entirety.

Judge Zilly also ruled that the “pick-a-party” primary conducted by Washington State in 2004 is now the valid primary in Washington. This primary is modeled after the “Montana” primary and requires voters to pick-a-party and vote only for the candidates from that party. It does not require voters to register with a party and protects the confidentiality of the voter’s party selection.

The Washington State Grange has declared its intentions to appeal Judge Zilly’s ruling to the 9<sup>th</sup> Circuit Court of Appeals. The state parties are certainly leaning toward an appeal also, but at this writing have not made a final decision on an appeal.

The Secretary of State Elections Division has advised all counties that Washington will be conducting a pick-a-party primary for the 2004 elections.

The pick-a-party primary will only affect those counties in Washington that will be conducting partisan races in 2005 because they were preparing for a “top two” primary. The primary will now be as it was in 2004. At this time, thirteen counties are planning to conduct partisan primaries this fall. This number could continue to change if vacancies develop in partisan offices in other counties. The Secretary of State will post on its website a current listing of those counties conducting partisan elections this fall.

Washington currently has two major political parties, the Republican Party and the Democratic Party. The Libertarian Party was a major party in 2004 but failed to meet state law requirements in the 2004 election to maintain major party status.

To implement the pick-a-party primary this fall, the Elections Division of the Secretary of State’s Office is taking the following actions.

- **WAC Rules.** The WAC rules used for the 2004 pick-a-party primary will be updated and filed with the Code Reviser this week, and prior to commencement of candidate filing on Monday, July 25, 2005.
- **Party Colors.** Counties are not required to use color, but may use color, to distinguish ballots in the primary. For ballots used in the 2005 primary, the Republican Party has agreed to use the color red and the Democratic Party has agreed to use the color blue.
- **Equipment Certification.** All counties will use tabulating equipment that has been certified in Washington for the pick-a-party primary.
- **Minor Party Conventions.** State WAC rules will authorize a special period in August for minor parties to hold nominating conventions. Under the pick-a-party primary, minor parties are entitled to nominate candidates

at conventions. Nominated candidates will then proceed directly to the general election ballot.

The Secretary of State Elections Division and all counties conducting partisan primaries are fully committed to implementing an efficient and fair primary in 2005 consistent with Judge Zilly's ruling.

#### **IV. Election Reform Legislation**

In the wake of the 2004 Governor's race, the 2005 Legislature passed eleven election reform bills.

The Secretary of State Elections Division and all counties have been working diligently to implement these reform measures.

The Secretary of State Elections Division has developed and filed four rule packages with the Code Reviser to implement new bills passed by the legislature. These rule packages are as follows.

- **Election Reform**
- **Initiative Filing and Signatures**
- **Voter Registration Challenges**
- **Voting Systems Certification**

Some elements of the rule packages have also been filed as emergency rules.

Work continues on the drafting of rules regarding the Voter Registration Data Base, the Voter Verified Paper Audit Trail, and the pick-a-party primary.

The most significant new changes being implemented for 2005 include the following.

**Voter ID Requirement.** State law now requires that all poll voters produce identification (ID) at the polls. The Office of Secretary of State is proposing by rule that the voter produce photo ID, and if he or she cannot provide this, a voter registration card, utility bill, bank statement, paycheck, government check, or other government document may also satisfy the ID requirement. If a voter does not have ID, he or she will be issued a provisional ballot.

**Provisional and Absentee Ballots.** State law now requires that provisional and absentee ballots be designed so that precinct tabulating equipment cannot accept the ballots at a poll-site. New rules will require that provisional and absentee ballots have different coloring to distinguish them from other ballots.

**Ballot Enhancement.** State law now prohibits ballot enhancement. Ballots may still be duplicated by two member duplication boards under close supervision if the voter's intent is clear.

**Signature Verification.** State signature verification standards have been increased to ensure all counties will follow uniform standards when verifying signatures. Additional training will also be provided to county staff.

**Vote by Mail.** With authorization from the county legislative authorities, County Auditors may now conduct elections entirely by mail.

**Election Procedures Review.** The Secretary of State will now review each county's election operations at least once every three years.

## **V. Vote By Mail**

The 2005 Legislature passed legislation authorizing any county to implement all vote by mail upon the authorization of the county legislative authority and the County Auditor. For King County, the County Council and Director of Records, Elections, Audits and Licensing Services must approve the change.

In the 2004 election, approximately 70% of Washington voters voted by mail and five Washington counties conducted vote by mail elections.

To date, twenty-nine counties have authorized vote by mail either to commence in 2005 or 2006, and more counties are expected to make this change.

A current listing of counties that will be conducting vote by mail elections in 2005 and 2006 will be posted on the Secretary of State website at <http://www.secstate.wa.gov>.

The Secretary of State Elections Division has filed new rule requirements for all vote by mail elections.

## **VI. Help America Vote Act (HAVA)**

The Help America Vote Act (HAVA) passed the Congress in 2002 following the 2000 Presidential election.

HAVA established new standards for federal elections and authorized funding for states to improve election processes.

Washington State has received approximately \$63 million to implement HAVA and improve elections in Washington.

The Secretary of State has established a HAVA Grant Program to authorize distribution of these funds to the state and counties for election improvements.

The HAVA Grant Advisory Board reviews and develops recommendations for county grants to the Secretary of State.

So far, the state has received more than fifty grant requests from the counties to update election equipment, replace punch card tabulators, acquire new election management systems, purchase disability access voting equipment such as Direct Recording Equipment (DREs) for disabled voters, improve poll site disability access, and develop voter education programs.

Many grants have been approved already and many are currently under consideration.

For more detailed information on the HAVA grant process or any particular grant, please contact Lori Guerrero, HAVA Coordinator. Lori Guerrero may be reached at (360 902-4169) and [lguerrero@secstate.wa.gov](mailto:lguerrero@secstate.wa.gov).

## **VI. Voter Registration Database (VRDB)**

The Help America Vote Act (HAVA) requires each state to develop a unified statewide voter registration database to be maintained at the state level.

Prior to this time, Washington counties maintained thirty-nine voter registration databases.

Effective January 1, 2006, Washington will implement one unified voter registration database maintained by the Secretary of State.

The Office of Secretary of State, in close partnership with the counties, is in the final stages of developing Washington's Voter Registration Database (VRDB). \$2.5 million in HAVA grants has been distributed to the counties so their systems are compatible with the statewide system. The Office of the Secretary of State is also working closely with the Department of Corrections, Department of Health, Washington State Patrol, Administrator of the Courts, Department of Licensing, and the Department of Information Services so database information may be exchanged among the agencies. The VRDB is scheduled to be online and operational in counties by January 1, 2006.

Many of the issues that surfaced in the 2004 Governor's race will be addressed by the new VRDB, including issues relating to felon, deceased, and double voters.

## **VII. Voter Education and Outreach**

The Office of Secretary of State and the County Auditors are planning an extensive voter education and outreach campaign for 2005 and 2006.

One coordinated campaign will be conducted in two stages.

The Office of Secretary of State is taking the lead on a statewide campaign that will feature TV, radio, and print materials educating voters on (1) the pick-a-party primary, (2) election reform measures, and (3) improving voter practices.

The County Auditors are also conducting county focused campaigns to educate voters in individual counties about changes that are occurring. These could involve elimination of punch card voting, introduction of new voting systems, changes to vote by mail, and other new procedures in the county.

This campaign will be designed to inform voters about election reforms passed by the Legislature. The campaign will also help educate voters to properly complete ballots, take care in signing ballots, and understand new voting systems and procedures.

Through competitive RFP processes, the state and counties have selected consultants to assist with these programs.

Throughout the election season, TV, radio, and print messages will be delivered to voters throughout the state on these issues.

For further questions, the Secretary of State Election Division may be reached at (360) 902-4180. The website is at [www.secstate.wa.gov](http://www.secstate.wa.gov).